

**FIFTY-SECOND LEGISLATIVE DAY  
WEDNESDAY, FEBRUARY 26, 2003**

House of Representatives

The House convened at 10:45 a.m., the Speaker in the Chair.

Roll call showed 69 members present.  
Absent and excused -- Kellogg. Total -- 1.  
Total -- 70.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Brandi Gill, Page.

**Approval of Journal**

February 26, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Fifty-first Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the  
Governor and the Senate**

February 25, 2003

Mr. Speaker:

I return herewith enrolled **H 13**, as amended, which has been signed by the President.

WOOD, Secretary

Enrolled **H 13**, as amended, was referred to the Judiciary, Rules, and Administration Committee for delivery to the Governor.

February 25, 2003

Mr. Speaker:

I transmit herewith **S 1043** which has passed the Senate.

WOOD, Secretary

**S 1043** was filed for first reading.

**Report of Standing Committees**

February 26, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **H 298**, **H 299**, **H 300**, **H 301**, and **H 302**.

FIELD(18), Chairman

**H 299** was referred to the State Affairs Committee.

**H 300** and **H 301** were referred to the Education Committee.

**H 302** was referred to the Revenue and Taxation Committee.

**H 298** was filed for second reading.

February 26, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **H 219** and **H 111**, as amended.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **H 219** and **H 111**, as amended, and, when so signed, ordered them transmitted to the Senate for the signature of the President.

February 25, 2003

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration **H 246** and **H 260** and recommend that they do pass.

DEAL, Chairman

**H 246** and **H 260** were filed for second reading.

February 25, 2003

Mr. Speaker:

We, your COMMITTEE ON COMMERCE AND HUMAN RESOURCES, report that we have had under consideration **S 1026** and recommend that it do pass.

SCHAEFER, Chairman

**S 1026** was filed for second reading.

February 25, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have had under consideration **H 215**, **H 220**, and **H 266** and recommend that they do pass.

FIELD(18), Chairman

**H 215**, **H 220**, and **H 266** were filed for second reading.

February 25, 2003

Mr. Speaker:

We, your COMMITTEE ON BUSINESS, report that we have had under consideration **H 180** and **H 248** and recommend that they do pass.

BLACK, Chairman

**H 180** and **H 248** were filed for second reading.

February 25, 2003

Mr. Speaker:

We, your COMMITTEE ON RESOURCES AND CONSERVATION, report that we have had under consideration **H 295** and recommend that it do pass.

STEVENSON, Chairman

**H 295** was filed for second reading.

February 26, 2003

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration **H 261** and recommend that it do pass.

TILMAN, Chairman

**H 261** was filed for second reading.

February 26, 2003

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration **H 267** and **H 268** and recommend that they do pass.

DEAL, Chairman

**H 267** and **H 268** were filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

#### **Motions, Memorials, and Resolutions**

House of Representatives  
State of Idaho

February 25, 2003

The Honorable Doug Jones, Chairman  
Agricultural Affairs Committee

Dear Representative Jones:

I hereby designate the Agricultural Affairs Committee a privileged committee for the purpose of introducing RS 13092, RS 13093, and RS 13094 on Wednesday, February 26, 2003.

Sincerely,  
/s/ BRUCE NEWCOMB  
Speaker of the House

The letter was ordered filed in the Office of the Chief Clerk.

#### **Introduction, First Reading, and Reference of Bills and Joint Resolutions**

#### **HOUSE BILL NO. 303 BY WAYS AND MEANS COMMITTEE AN ACT**

RELATING TO SAFETY RESTRAINT USE; AMENDING SECTION 49-673, IDAHO CODE, TO REQUIRE MOTOR VEHICLE OCCUPANTS TO WEAR SAFETY RESTRAINTS, TO PROVIDE THAT A CITATION MAY BE ISSUED TO OCCUPANTS EIGHTEEN YEARS OF AGE OR OLDER WHO FAIL TO WEAR SAFETY RESTRAINTS, TO PROVIDE

THAT A CITATION MAY BE ISSUED TO THE MOTOR VEHICLE OPERATOR IF THE OPERATOR IS EIGHTEEN YEARS OF AGE OR OLDER AND ANY OCCUPANT UNDER EIGHTEEN YEARS OF AGE FAILS TO WEAR A SAFETY RESTRAINT, TO PROVIDE FOR A FINE OF TEN DOLLARS, TO APPORTION THE FINE, TO PROVIDE THAT A CITATION MAY BE ISSUED TO THE OPERATOR OF THE MOTOR VEHICLE IF THE OPERATOR IS UNDER EIGHTEEN YEARS OF AGE AND THE OPERATOR OR ANY OTHER OCCUPANT WHO IS UNDER EIGHTEEN YEARS OF AGE FAILS TO WEAR A SAFETY RESTRAINT, TO PROVIDE FOR A FINE OF TEN DOLLARS PLUS COURT COSTS, TO APPORTION THE FINE, TO STATE THAT VIOLATIONS CONSTITUTE A SINGLE VIOLATION, TO LIMIT APPLICATION FOR PURPOSES OF VIOLATION POINTS AND INSURANCE RATES, TO PROVIDE THAT ENFORCEMENT MAY BE ACCOMPLISHED ONLY AS A SECONDARY ACTION, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

#### **HOUSE BILL NO. 304 BY EDUCATION COMMITTEE AN ACT**

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1002, IDAHO CODE, TO INCREASE THE DIVISORS USED IN DETERMINATION OF SUPPORT UNITS FOR CALCULATIONS OF THE EDUCATIONAL SUPPORT PROGRAM AND TO MAKE A TECHNICAL CORRECTION.

#### **HOUSE BILL NO. 305 BY STATE AFFAIRS COMMITTEE AN ACT**

RELATING TO THE USE OF LAND BANK FUNDS BY THE STATE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 58-133, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS MAY HOLD PROCEEDS FROM THE SALE OF LAND IN THE LAND BANK FUND FOR A PERIOD NOT TO EXCEED FIVE YEARS FROM THE EFFECTIVE DATE OF SALE AND TO PROVIDE THAT IF BY THE END OF THE FIFTH YEAR, THE PROCEEDS FROM THE LAND SALE HAVE NOT BEEN ENCUMBERED TO PURCHASE OTHER LAND WITHIN THE STATE, THE PROCEEDS SHALL BE DEPOSITED IN THE PERMANENT ENDOWMENT FUND OF THE RESPECTIVE ENDOWMENT ALONG WITH ANY EARNINGS ON THE PROCEEDS FROM THE LAND SALE, UNLESS THE PERIOD IS EXTENDED BY THE LEGISLATURE.

#### **HOUSE BILL NO. 306 BY STATE AFFAIRS COMMITTEE AN ACT**

RELATING TO HEALTH INSURANCE, THE SMALL EMPLOYER REINSURANCE PROGRAM AND THE HIGH RISK REINSURANCE POOL; AMENDING SECTION 41-4703, IDAHO CODE, TO FURTHER DEFINE THE TERM "CARRIER"; AMENDING SECTION 41-4711, IDAHO CODE,

TO PROVIDE THAT ALL CARRIERS SHALL BE SUBJECT TO THE SMALL EMPLOYER CARRIER REINSURANCE PROGRAM, TO REVISE PROCEDURES AND TO CLARIFY THAT ALL AUTHORIZED HEALTH INSURERS ARE SUBJECT TO THE REPORTING REQUIREMENTS RELATING TO THE ASSESSMENT PROCESS IN THE SMALL EMPLOYER REINSURANCE PROGRAM; AMENDING SECTION 41-5501, IDAHO CODE, TO FURTHER DEFINE THE TERM "CARRIER"; AND AMENDING SECTION 41-5505, IDAHO CODE, TO PROVIDE THAT ANY INDIVIDUAL CARRIER ISSUING AN INDIVIDUAL BASIC, STANDARD, CATASTROPHIC A OR CATASTROPHIC B HEALTH BENEFIT PLAN SHALL BE REINSURED BY THE INDIVIDUAL HIGH RISK REINSURANCE POOL TO THE LEVEL OF COVERAGE PROVIDED IN THE PLAN AND SHALL BE LIABLE TO THE POOL OR THE REINSURANCE PREMIUM; AND DECLARING AN EMERGENCY.

**H 303, H 304, H 305, and H 306** were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

**S 1043**, by Transportation Committee, was introduced, read the first time by title, and referred to the Transportation and Defense Committee.

There being no objection, the House advanced to the Tenth Order of Business.

### Second Reading of Bills and Joint Resolutions

**HCR 25**, by Ways and Means Committee, was read the second time by title and filed for third reading.

**S 1106**, by Resources and Environment Committee, was read the second time by title and filed for third reading.

**H 231**, by Transportation and Defense Committee, was read the second time by title and filed for third reading.

**H 213 and H 237**, by Health and Welfare Committee, were read the second time by title and filed for third reading.

There being no objection, the House advanced to the Twelfth Order of Business.

### Consideration of General Orders

Mr. Denney moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Ms. Jaquet. Motion carried.

Whereupon the House resolved itself into a Committee of the Whole House for the consideration of General Orders with Mr. Moyle in the Chair.

When the Committee of the Whole House rose, the Speaker returned to the Chair and the House was in order.

### Report of the Committee of the Whole House

February 26, 2003

Mr. Speaker:

We, your COMMITTEE OF THE WHOLE HOUSE, report that we have had under consideration **H 238, HCR 21, H 211, H 209, H 66, H 64, H 174, H 256, and H 206** and report them back without recommendation, amended as follows:

### HOUSE AMENDMENT TO H 238

#### AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 29 through 41, and delete all of page 2.

#### CORRECTION TO TITLE

On page 1, delete lines 5 through 8 and insert: "THAT THE CIVIL PENALTIES WILL BE REMITTED TO THE GENERAL FUND."

### HOUSE AMENDMENT TO HCR 21

#### AMENDMENT TO THE RESOLUTION

On page 1 of the printed resolution, in line 42, delete "the developmentally disabled." and insert: "individuals with developmental disabilities; and

WHEREAS, the Scales of Independent Behavior-Revised (SIB-R) may be a good tool to determine eligibility, the Region 2 Pilot Project demonstrated there is not a correlation between SIB-R scores and the cost of needed services for Idahoans with developmental disabilities.";

On page 2, in line 9, following "provider" insert: "/person"; in line 12, following "situation" insert: ", medical needs"; in line 17, delete "for" and insert: "of"; in line 19, following "included." insert: "The budget will be based on the "person-centered" service plan using objective standards, and not primarily on the SIB-R score. Consumers will be protected from any coercion or undue influence in the process."; in line 32, following "provider" insert: ", consumer and support team"; and in line 41, following "families" insert: ", and advocates to write applicable rules and".

### HOUSE AMENDMENT TO H 211

#### AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 33 and 34, and insert: "hearing. The director shall give such notice of the petition as is necessary to provide other affected persons an opportunity to participate in the proceeding. The hearing shall be held and con-".

### HOUSE AMENDMENTS TO H 209

#### AMENDMENTS TO SECTION 2

On page 1 of the printed bill, in line 20, following "transfer" insert: "a total sum of"; in line 21, delete "two hundred fifty" and insert: "nine hundred", and also in line 21, delete "(\$2,250,000 from the big game" and insert: "(\$2,900,000)"; in line 22, delete

"secondary account to" and insert: "into", and also in line 22, following "fund." insert: "The primary source of the transfer will be the entire balance from the nonappropriated principal amount in the big game secondary depredation account. In the event the balance so transferred is less than two million nine hundred thousand dollars (\$2,900,000), then whatever sum is necessary to satisfy the shortfall shall be transferred from that portion of the big game secondary depredation account representing the interest earned on investment of moneys in the account available for appropriation."; in line 24, delete "fifty" and insert: "forty", and also in line 24, delete "\$50,000" and insert: "\$40,000".

#### AMENDMENTS TO SECTION 6

On page 6, in line 41, following "the" insert: "expendable", and also in line 41, delete "primary"; and in line 42, delete "account" and insert: "fund".

#### CORRECTION TO TITLE

On page 1, in line 10, following "CODE," insert: "TO REVISE THE NAME OF AN ACCOUNT,".

#### HOUSE AMENDMENT TO H 66

##### AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 15 and 16 and insert: "act), Idaho Code, and rules adopted under those chapters, within properties owned ~~and~~ or managed by the department. The director may delegate this authority".

#### CORRECTION TO TITLE

On page 1, deletes lines 3 through 6 and insert: "AMENDING SECTION 67-4239, IDAHO CODE, TO PROVIDE THAT AN ACTION NEEDS TO HAVE OCCURRED ON PROPERTIES OWNED OR MANAGED BY THE DEPARTMENT OF PARKS AND RECREATION BEFORE A CITATION MAY BE ISSUED BY A DEPARTMENT EMPLOYEE.".

#### HOUSE AMENDMENT TO H 64

##### AMENDMENT TO SECTION 2

On page 2 of the printed bill, delete lines 36 through 39 and insert:

"(4) In the absence of a bona fide program in the area or upon the request of the bona fide county snowmobile advisory committee of the nearest affected county in Idaho, the requirements for the nonresident certificate may be waived by the park and recreation board on specific trails where the snowmobile trail grooming is solely supported by a state other than Idaho."

#### HOUSE AMENDMENT TO H 174

##### AMENDMENTS TO SECTION 1

On page 1 of the printed bill, delete lines 10 and 11 and insert:

"(a) iIn a negligent manner as prescribed in section 67-7017, Idaho Code, while within one hundred (100) feet of another vessel; or

(b) ~~a~~At a speed";

and in line 17, delete "(b)" and insert: "(c)".

#### HOUSE AMENDMENTS TO H 256

##### AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 14 through 16 and insert:

"(2) "Private property" means all ~~real~~ property protected by the ~~fifth amendment and the fourteenth amendment of the~~ constitution of the United States or ~~section 13, article I, of the~~ constitution of the state of Idaho.".

##### AMENDMENTS TO SECTION 2

On page 2, in line 11, delete "land" and insert: "property"; and following line 20 insert:

"(4) During the preparation of the taking analysis, any time limitation relevant to the regulatory or administrative actions shall be tolled. Such tolling shall cease when the taking analysis has been provided to the property owner. Both the request for a taking analysis and the taking analysis shall be part of the official record regarding the regulatory or administrative action."

#### CORRECTION TO TITLE

On page 1, delete line 7 and insert: "SIS IS NOT PREPARED AFTER REQUEST, TO PROVIDE FOR JUDICIAL PROCEEDINGS AND TO PROVIDE FOR A TOLLING OF A TIME LIMITATION RELEVANT TO THE REGULATORY OR ADMINISTRATIVE ACTION.".

#### HOUSE AMENDMENT TO H 206

##### AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 39, delete "and maintain"; delete line 40 and insert: "thirty thousand dollars (\$30,000) determined in"; on page 2, in line 1, following "principles" insert: ", provided that applicants seeking to engage in the business of payday loans at more than one (1) location in the state shall have liquid assets of at least an additional five thousand dollars (\$5,000) for each additional location in the state up to a maximum of seventy-five thousand dollars (\$75,000) for all locations in the state".

We have also had under consideration **H 257**, report progress and beg leave to sit again.

MOYLE, Chairman

Mr. Moyle moved that the report be adopted. Seconded by Mr. Denney.

Whereupon the Speaker declared the report adopted.

**H 238**, as amended, **HCR 21**, as amended, **H 211**, as amended, **H 209**, as amended, **H 66**, as amended, **H 64**, as amended, **H 174**, as amended, **H 256**, as amended, and **H 206**, as amended, were referred to the Judiciary, Rules, and Administration Committee for engrossing.

**H 257** was retained on General Orders.

The amendments were referred to Judiciary, Rules, and Administration committee for printing.

There being no objection, the House returned to the Eleventh Order of Business.

### Third Reading of Bills and Joint Resolutions

Mr. Campbell asked unanimous consent that **H 198** be returned to the Environmental Affairs Committee. There being no objection, it was so ordered.

**H 187** was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Lake to open debate.

Pursuant to Rule 38(3), Mr. Smylie disclosed a conflict of interest regarding **H 187**.

Mr. Black asked unanimous consent that **H 187** be placed on General Orders for consideration. Mr. Lake objected.

Mr. Black moved that **H 187** be placed on General Orders for consideration. Seconded by Mr. Meyer.

Mr. Denney moved that the House recess until 1:30 p.m. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House at recess until 1:30 p.m.

### RECESS

#### Afternoon Session

The House reconvened at 1:30 p.m., the Speaker in the Chair.

Roll call showed 69 members present.

Absent and excused -- Kellogg. Total -- 1.

Total -- 70.

Prior to recess, the House was at the Eleventh Order of Business.

### Third Reading of Bills and Joint Resolutions

Prior to recess, the House had under consideration the motion to place **H 187** on General Orders.

The question being, "Shall the motion carry?"

Roll call resulted as follows:

AYES -- Black, Clark, Denney, Ellsworth, Eskridge, Field(23), Gagner, Garrett, Langford, McGeachin, Meyer, Stevenson. Total -- 12.

NAYS -- Andersen, Barraclough, Barrett, Bauer, Bedke,

Bell, Bieter, Block, Boe, Bolz, Bradford, Campbell, Cannon, Collins, Crow, Cuddy, Deal, Douglas, Eberle, Edmunson, Field(18), Harwood, Henbest, Jaquet, Jones, Kulczyk, Lake, Langhorst, Martinez, Miller, Mitchell, Moyle, Naccarato, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Tilman, Trail, Wills, Wood, Mr. Speaker. Total -- 56.

Absent and excused -- Kellogg, McKague. Total -- 2.

Total -- 70.

Whereupon the Speaker declared the motion failed.

The question being, "Shall **H 187** pass?"

Roll call resulted as follows:

AYES -- Barraclough, Barrett, Bauer, Bedke, Bell, Block, Bradford, Cannon, Clark, Collins, Crow, Denney, Eberle, Field(23), Harwood, Kulczyk, Lake, Langford, McGeachin, Moyle, Nielsen, Raybould, Roberts, Sali, Schaefer, Smith(24), Stevenson, Tilman, Wood, Mr. Speaker. Total -- 30.

NAYS -- Andersen, Bieter, Black, Boe, Bolz, Campbell, Cuddy, Deal, Douglas, Edmunson, Ellsworth, Eskridge, Field(18), Gagner, Garrett, Henbest, Jaquet, Jones, Langhorst, Martinez, Meyer, Miller, Mitchell, Naccarato, Ridinger, Ring, Ringo, Robison, Rydalch, Sayler, Shepherd, Shirley, Skippen, Smith(30), Smylie, Snodgrass, Trail, Wills. Total -- 38.

Absent and excused -- Kellogg, McKague. Total -- 2.

Total -- 70.

Whereupon the Speaker declared **H 187** failed to pass the House and ordered the bill filed in the Office of the Chief Clerk.

Mr. Denney asked unanimous consent that **H 275** retain its place on the Third Reading Calendar until Friday, February 28, 2003. There being no objection, it was so ordered.

Mr. Denney asked unanimous consent that the remaining bills on the Third Reading Calendar retain their places for one Legislative Day. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

### Adjournment

Mr. Denney moved that the House adjourn until 10:45 a.m., Thursday, February 27, 2003. Seconded by Mrs. Boe. Motion carried.

Whereupon the Speaker declared the House adjourned at 2:18 p.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk